

E-filing

**United States District Court**  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
VENUE: SAN FRANCISCO

**FILED**  
08 APR - 3 PM 12:21  
WHA  
RICHARD W. HALL  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CR 22

UNITED STATES OF AMERICA,  
V.

LUKE D. BRUGNARA

DEFENDANT(S).

**INDICTMENT**

A true bill.

*Donald H. Luk*  
Foreman

Filed in open court this 31 day of

APRIL 2008  
*King, Hon*  
Clerk

Bail, \$ NO PRACER  
*John Lee*

AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING**OFFENSE CHARGED**26 USC § 7206(1) - 3 counts  
Filing False Tax Returns**E-filing**☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony**PENALTY:**26 USC § 7206(1) - 3 yrs impris., \$250,000 fine, 1 year  
superv. rel., \$100 assessment**PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

INTERNAL REVENUE SERVICE

☐ person is awaiting trial in another Federal or State  
Court, give name of court☐ this person/proceeding is transferred from another  
district per (circle one) FRCrP 20, 21 or 40. Show  
District☐ this is a re prosecution of  
charges previously dismissed  
which were dismissed on  
motion of:☐ U.S. Att'y ☐ Defense☐ this prosecution relates to a  
pending case involving this same  
defendant☐ prior proceedings or appearance(s)  
before U.S. Magistrate regarding  
this defendant were recorded underSHOW  
DOCKET NO.MAGISTRATE  
CASE NO.

Name and Office of Person

Furnishing Information on JOSEPH P. RUSSONIELLO  
THIS FORM☒ U.S. Att'y ☐ Other U.S. AgencyName of Asst. U.S. Att'y  
(if assigned)

THOMAS NEWMAN, AUSA, TAX DIV.

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA**DEFENDANT - U.S.**

LUKE D. BRUGNARA

DISTRICT COURT NUMBER

**DEFENDANT****IS NOT IN CUSTODY**1) ☒ Has not been arrested, pending outcome this proceeding.  
If not detained give date any prior summons  
was served on above charges2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)

NORTHERN DISTRICT OF CALIFORNIA

**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction6) ☐ Awaiting trial on other  
charges☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of Institution

Has detainer  
been filed?☐ Yes  
☐ NoIf "Yes"  
give date  
filed**DATE OF  
ARREST**

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

Month/Day/Year

**DATE TRANSFERRED  
TO U.S. CUSTODY**☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☒ NO PROCESS\*☐ WARRANT Bail Amount: \_\_\_\_\_

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: \_\_\_\_\_

\*Where defendant previously apprehended on complaint, no new summons  
or warrant needed, since Magistrate has scheduled arraignment

Date/Time: \_\_\_\_\_

Before Judge: \_\_\_\_\_

Comments: \_\_\_\_\_

JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney

E-filing

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUKE D. BRUGNARA,

Defendant.

No. CR-

VIOLATIONS:

26 U.S.C. § 7206(1) (False Tax Return)  
(THREE COUNTS)

INDICTMENT

The Grand Jury charges:

At all times material to this Indictment, and incorporated by reference in all counts:

**A. Defendant.**

1. Defendant LUKE D. BRUGNARA was a resident of San Francisco, California, and was the sole owner of Brugnara Properties I, II, III, IV, V, and VI (collectively referred to as "Brugnara Properties.")

2. Defendant was the sole shareholder and owner of Brugnara Corporation.

3. Defendant formed Brugnara Corporation and Brugnara Properties for the purpose of managing commercial rental property that is titled in the name of those entities.

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INDICTMENT

**B. Brugnara Properties Acquisition And Disposition of Real Properties.**

4. **The Mission Street Property:** Brugnara Properties purchased the commercial rental property located at 810-814 Mission Street, San Francisco, California, on November 29, 1993. On January 5, 2000, Brugnara Properties sold the Mission Street property and recognized gain in the amount of \$8,656,936.

5. **The Market Street Property:** Brugnara Properties purchased the commercial rental property located at 935-939 Market Street, San Francisco, California, on May 7, 1993. On January 13, 2000, Brugnara Properties sold the Market Street property and recognized gain in the amount of \$6,484,027.65.

6. **The Post Street Property:** Brugnara Properties purchased the commercial rental property located at 490 Post Street, San Francisco, California, on January 7, 1998. On May 16, 2001, Brugnara Properties sold the Post Street property and recognized gain in the amount of \$21,534,065.

7. **The Las Vegas Property:** Brugnara Properties purchased the commercial rental property located at 3025 S. Las Vegas Boulevard, Winchester, Nevada, on October 13, 1999. On May 1, 2002, Brugnara Properties sold the one subdivided parcel of the Las Vegas Boulevard property and recognized gain in the amount of for \$8,458,399.

8. **The San Jacinto Way Properties:** Brugnara Properties purchased real property located at 38 San Jacinto Way, San Francisco, California, on June 29, 1994, and the real property located at 36 San Jacinto Way, San Francisco, California, was purchased on October 28, 1994. The property located at 36 San Jacinto Way was sold on October 15, 2002, and \$529,975 of gain was recognized. The property located at 38 San Jacinto Way was sold on July 3, 2003, and \$530,963 of gain was recognized.

**C. Defendant's Tax Reporting of the Brugnara Properties' Transactions.**

9. On or about April 18, 2002, Defendant filed with the Internal Revenue Service a Form 1040, U.S. Individual Income Tax Return, for the 2000 calendar year, which had as an attachment a self-created Schedule E, Supplemental Income and Loss Statement, and Schedule K-1, Partner's Share of Income, Deductions, and Credits.

1           10. On or about April 16, 2002, Defendant filed with the Internal Revenue Service a  
2 Form 1040, U.S. Individual Income Tax Return, for the 2001 calendar year, which had as an  
3 attachment a self-created Schedule E, Supplemental Income and Loss Statement, and Schedule  
4 K-1, Partner's Share of Income, Deductions, and Credits.

5           11. On or about February 17, 2004, Defendant filed with the Internal Revenue Service  
6 a Form 1040, U.S. Individual Income Tax Return, for the 2002 calendar year, which had as an  
7 attachment a self-created Schedule E, Supplemental Income and Loss Statement, and Schedule  
8 K-1, Partner's Share of Income, Deductions, and Credits.

9           12. On the self-created Schedule E and Schedule K-1 Brugnara prepared, he includes  
10 only two categories of income, including (1) "Rents," and (2) "Other," and four categories of  
11 expenses, including (1) "Building Operations, (2) "Depreciation," (3) "Interest and Points, and  
12 (4) "Loss Carry Forward."

13           13. Internal Revenue Service Form Schedule E requires an individual to report rental  
14 income and expenses in at least twelve categories for each property. Internal Revenue Service  
15 Form Schedule K-1 require an individual to report income received from a partnership or S-  
16 corporation that is delineated into eleven categories, including, *inter alia*, rental income, capital  
17 gains, and ordinary dividends. In addition, an U.S. Individual Income Tax Return, Form 1040,  
18 U.S. Partnership Tax Return, Form 1065, and U.S. Corporation Income Tax Return requires a  
19 taxpayer to report income and expenses related to the disposition of each real property held on a  
20 Form 4797, including the date the property was acquired and sold, the location, and the amount  
21 of capital gain income.

22           14. Defendant's U.S. Individual Income Tax Returns, Forms 1040, for 2000 and  
23 2001, with the self-created Schedule E and Schedule K-1, fail to report detailed expenses for  
24 each property, and report no capital gain or dividend income was received following the  
25 disposition of the Mission Street, Market Street, Post Street properties during 2000 and 2001.  
26 Defendant's U.S. Individual Income Tax Returns, Form 1040, for 2002, falsely reports capital  
27 gain income from the sale of Mission Street, Market Street, Post Street, and 38 San Jacinto Way,  
28 which were not sold during 2002, and omits dividend or capital gain income related to the sale of



1 the Las Vegas property.

2  
3 **COUNT ONE:** (26 U.S.C. § 7206(1)) - (Filing False Tax Return)

4 On or about April 18, 2002, the defendant

5 LUKE D. BRUGNARA

6 did willfully and knowingly make and subscribe a U.S. Individual Income Tax Return for the  
7 2000 calendar year, which was filed with the IRS and verified by the defendant in a written  
8 declaration that it was made under the penalties of perjury, which income tax return he did not  
9 believe to be true and correct as to every material matter in that said defendant reported no  
10 income related to the disposition of the Market Street and Mission Street properties, whereas, he  
11 then and there well knew and believed, his income related to sale of those properties were  
12 substantially in excess of the amount reported.

13 In violation of Title 26, United States Code, Section 7206(1).

14  
15 **COUNT TWO:** (26 U.S.C. § 7206(1)) - (Filing False Tax Return)

16 On or about April 16, 2002, the defendant

17 LUKE D. BRUGNARA

18 did willfully and knowingly make and subscribe a U.S. Individual Income Tax Return for the  
19 2001 calendar year, which was filed with the IRS and verified by the defendant in a written  
20 declaration that it was made under the penalties of perjury, which income tax return he did not  
21 believe to be true and correct as to every material matter in that said defendant reported no  
22 income related to the disposition of the Post Street property, whereas, he then and there well  
23 knew and believed, his income related to the sale of that property was substantially in excess of  
24 the amount reported.

25 In violation of Title 26, United States Code, Section 7206(1).

**COUNT THREE:** (26 U.S.C. § 7206(1)) - (Filing False Tax Return)

On or about February 17, 2004, the defendant

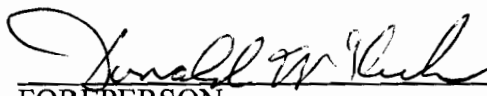
LUKE D. BRUGNARA

did willfully and knowingly make and subscribe a U.S. Individual Income Tax Return for the 2002 calendar year, which was filed with the IRS and verified by the defendant in a written declaration that it was made under the penalties of perjury, which income tax return he did not believe to be true and correct as to every material matter in that said defendant reported capital gain income related to the sale of the Mission Street, Market Street, Post Street, and San Jacinto Way Properties, and omitted income related to the disposition of the Las Vegas property, whereas, he then and there well knew and believed, that his capital gain income was substantially in excess of the amount reported, and he did not sell the Mission Street, Market Street, Post Street, and San Jacinto Way properties during 2002.

In violation of Title 26, United States Code, Section 7206(1).

A True Bill


Dated: 4-3-08

  
FOREPERSON

JOSEPH P. RUSSONIELLO  
United States Attorney

  
BRIAN STRETCH  
Chief, Criminal Section

Approved as to Form:

  
THOMAS M. NEWMAN  
Assistant United States Attorney  
Tax Division

INDICTMENT